

Employment, Labor, and Professional Regulation

Sub. H.B. 131

Reps. Gavarone and Reineke, Blessing, Lepore-Hagan, Anielski, Antonio, Arndt, Ashford, Greenspan, Hambley, Henne, Holmes, Hoops, Manning, Patton, Pelanda, Rogers, Ryan, Schaffer, Scherer, Schuring, Seitz, Slaby, Stein, M. Sweeney, West, Wiggam

Sens. Gardner, Beagle, Tavares, Sykes, Burke, Dolan, Hackett, Kunze, Thomas

Effective date: March 20, 2019

- Revises the physical therapy licensing law's description of the components and purpose of the practice of physical therapy.
- Authorizes a physical therapist to determine the following in evaluating a person: (1) a physical therapy diagnosis (but not a medical diagnosis), (2) a prognosis, and (3) a plan of therapeutic intervention.
- Extends a physical therapist's authority to perform massage by authorizing the use of other manual therapy techniques.
- Allows a physical therapist assistant licensed or registered in another country to qualify for licensure in Ohio by demonstrating equivalency to Ohio's licensing requirements.
- Modifies procedures for physical therapists and physical therapist assistants submitting license applications.

Sub. H.B. 133

Reps. Ryan, Hambley, Hill, Carfagna, Goodman, Seitz, Schaffer, Lipps, Arndt, Green, Ginter, Slaby, Cupp, Dean, Reineke, Miller, Anielski, Antani, Antonio, Ashford, Barnes, Blessing, Brown, Craig, Duffey, Fedor, Galonski, Gavarone, Greenspan, Holmes, Howse, Hughes, T. Johnson, Kent, Kick, Koehler, Lanese, Lang, LaTourette, Leland, Lepore-Hagan, Manning, McColley, Merrin, O'Brien, Patterson, Patton, Pelanda, Perales, Rezabek, Riedel, Roegner, Rogers, Schuring, Sheehy, R. Smith, Sprague, Stein, Sweeney, West, Wiggam, Young

Sens. Terhar, Eklund, Beagle, Burke, Coley, Dolan, Gardner, Hackett, Hoagland, Hottinger, LaRose, Lehner, O'Brien, Oelslager, Peterson, Schiavoni, Sykes, Tavares, Thomas, Wilson, Yuko

Effective date: September 28, 2018

- Exempts from state and municipal income taxes any income received by an out-of-state disaster business or qualifying out-of-state employee for certain work repairing public utility or communications infrastructure damaged by a declared disaster during a defined period of time.

- Exempts from the commercial activity tax any gross receipts received by an out-of-state disaster business for repairing such infrastructure during such a period.
- Exempts from state and local use taxes the temporary use in Ohio of any equipment by an out-of-state disaster business to repair such infrastructure.
- Exempts from any state or local occupational licensing requirements certain out-of-state disaster businesses and qualifying out-of-state employees performing disaster work in Ohio during such a period.
- Exempts from Ohio's workers' compensation and unemployment compensation laws out-of-state employees performing disaster work in Ohio during such a period.
- Provides that an out-of-state disaster business or out-of-state employee engaging in disaster work in Ohio during such a period is not required to file any business documents in Ohio before engaging in the disaster work.
- Modifies the calculation of the interest penalty imposed for the underpayment or nonpayment of estimated state income tax installments.

Sub. H.B. 145

Reps. Huffman and Sprague, Seitz, Blessing, Butler, Clyde, Faber, Anielski, Antonio, Ashford, Barnes, Boyd, Carfagna, Craig, Cupp, Duffey, Fedor, Galonski, Ginter, Green, Greenspan, Hambley, Holmes, T. Johnson, Kent, Leland, Lepore-Hagan, Manning, O'Brien, Patterson, Patton, Pelanda, Reineke, Roegner, Rogers, Ryan, Sheehy, Stein, Strahorn, Sweeney, Sykes, West, Wiggam

Sens. Gardner, Hottinger, Brown, Beagle, Oelslager, Tavares, Coley, Eklund, Hoagland, Huffman, Sykes, Terhar

Effective date: Emergency: February 8, 2018

- Requires the State Medical Board to establish the "One-Bite Program," a confidential program for treatment of health care practitioners impaired by alcohol, drugs, or other substances who have not been previously sanctioned by the Board for that impairment.
- Requires suspected practitioner impairment to be reported to the monitoring organization conducting the One-Bite Program, rather than the Board.
- Establishes uniform procedures for issuing and renewing training certificates for both physicians and podiatrists pursuing internships, residencies, and clinical fellowships.
- Coordinates the Board's licensing procedures for dietitians and respiratory care professionals with its procedures for physicians and other health professionals.
- Requires legislative authorization before home and community-based waiver services or nursing facility services may be included in Medicaid managed care.

Sub. H.B. 420

Reps. Sykes and Boyd, Boccieri, Ashford, Antonio, LaTourette, Lepore-Hagan, Ginter, K. Smith, Sprague, Howse, Riedel, Boggs, Kent, Carfagna, Kick, West, Sheehy, Brenner, Anielski, Blessing, Brinkman, Brown, Craig, Cupp, Edwards, Faber, Galonski, Gavarone, Green, Hagan, Hambley, Henne, Hill, Holmes, Hood, Hoops, Ingram, T. Johnson, Koehler, Landis, Lanese, Lang, Leland, McClain, Miller, O'Brien, Patterson, Patton, Pelanda, Perales, Ramos, Retherford, Roegner, Rogers, Romanchuk, Ryan, Schaffer, Scherer, Schuring, T. Smith, B. Sweeney, Thompson, Wilkin, Young, R. Smith

Sens. Gardner, Hackett, Beagle, Burke, Brown, Eklund, Hottinger, LaRose, Lehner, Manning, Obhof, O'Brien, Peterson, Schiavoni, Skindell, Sykes, Tavares, Thomas, Uecker, Williams, Wilson, Yuko

Effective date: April 5, 2019

Ohio Adoption Awareness Month

- Designates November as "Ohio Adoption Awareness Month."

Speech and Hearing Professionals Board

- Requires a hearing aid dealer's or fitter's license to be renewed biennially rather than annually.
- Requires the State Speech and Hearing Professionals Board to adopt rules establishing the amount of any fee required under the Hearing Aid Dealers Law and eliminates the statutorily specified fees.
- Expands the Board's duties from investigating specific complaints to investigating all alleged irregularities in the sale or practice of dealing in or fitting hearing aids by any licensee or permit holder, as well as any violations of the Law or the Board's rules.
- Revises the reasons for which the Board may discipline a licensee or permit holder and the actions it may take for certain violations.
- Requires the Board to act in accordance with the Administrative Procedure Act before disciplining a licensee or permit holder based on a complaint or investigation.
- Requires the Board to adopt rules establishing the information that must be included in a hearing aid receipt.
- Specifies that tests and related materials used in an examination are not public records under the Public Records Law.

Optical dispensing

- Requires the State Vision Professionals Board to provide each applicant for an optical dispensing license with all forms required to apply for examination, instead of permitting a testing service to provide the forms.

- Requires an optical dispensing apprentice to register with the Board both on a form provided by it and in the form of a statement that includes specified information, instead of allowing registration with either the form or a statement.

Behavioral health providers and Medicaid criminal records checks

- Modifies an exemption from Medicaid criminal records check requirements under which certain Medicaid providers may employ persons despite the requirements, as long as claims are not submitted for the employees' services.
- Limits the exemption to: (1) a Medicaid provider of behavioral health services and (2) an employee or prospective employee who holds or is in the process of obtaining a license as a behavioral health professional or a certificate as a peer recovery supporter.

Sub. H.B. 494

Reps. Antani, Brenner, Green, Greenspan, Hambley, Henne, Lang, Merrin, Patton, Pelanda, Reineke, Riedel, Roegner, Ryan, Schaffer, Scherer, Schuring, Seitz, Thompson, Wiggam, R. Smith

Sens. LaRose, Coley, Eklund, Hackett, Terhar, Wilson

Effective date: March 20, 2019

Franchisors

- Considers a franchisor, unless an exception applies, not to be an employer of a franchisee or a franchisee's employees for purposes of the minimum wage and overtime laws, the Bimonthly Pay Law, the Workers' Compensation Law, the Unemployment Compensation Law, and the Income Tax Law.
- Considers a franchisor to be the employer of a franchisee or a franchisee's employees if a court of competent jurisdiction determines that the franchisor exercises a type or degree of control over the franchisee or the franchisee's employees that is not customary in a franchise relationship.
- Allows a franchisor to agree in writing to assume the role of an employer with respect to a franchisee or a franchisee's employees.

Women-owned Business Enterprise Program

- Requires the Director of Administrative Services to establish the Women-owned Business Enterprise Program.
- Requires the Director to adopt rules under the Administrative Procedure Act to establish specified elements of the Program, including eligibility, certification, and outreach.

- Extends eligibility under the Program to women-owned businesses that are certified by another state under a similar business assistance program if the Director has entered into a reciprocal agreement with the state.
- Exempts generally from disclosure as a public record any business and personal financial information and trade secrets submitted by a Program applicant.
- Requires the Director to file an annual report with the Governor and General Assembly describing the progress made by state agencies in advancing the Program.

Am. Sub. S.B. 255

Sens. McColley, Wilson, Jordan, Huffman, Terhar, LaRose, Coley, Hoagland, Lehner, Eklund, Beagle, Balderson, Hackett, Obhof, O'Brien, Peterson, Uecker

Reps. Roegner, Becker, Merrin, Retherford, Young, Zeltwanger, Brenner, Dean, Faber, Green, Henne, Hood, Reineke, Riedel, Seitz, Thompson, R. Smith

Effective date: April, 5, 2019; prohibitions regarding licensed home inspectors effective November 1, 2019

Expiration of occupational licensing boards

- Requires all occupational licensing boards to be renewed at least once every six years by the General Assembly.
- States that a board that is not renewed within six years of its last renewal or creation is triggered to expire.
- Requires all boards to be reviewed and renewed by December 31, 2024, unless created within six years of that date.
- Allows for the concluding of business and operation of an expired board and allows any person to engage in an occupation if the board that licensed that occupation has expired.

General Assembly review

- Creates a timeline for the House of Representatives and Senate to review occupational licensing boards scheduled to be triggered to expire during a biennium.
- Requires the Senate President and the Speaker of the House to create standing committees in each chamber to review boards scheduled to be triggered to expire during a biennium.
- Requires the standing committees to review approximately 33% of the boards each biennium, and to review all boards at least once every six years.
- Requires a board before a standing committee to submit a report containing information about the board's purpose, workload, budget, and staffing.

- States that the board has the burden of proving the need for its continued existence and lists factors for a House or Senate standing committee to consider when making a determination about a board.
- Requires the Senate President and the Speaker of the House to notify the Chief of the Common Sense Initiative Office (CSIO) when a board is to be reviewed, and requires the Chief or a designee to testify before the standing committee about any information the CSIO has received regarding the board.
- Requires a standing committee to publish a report of its findings and recommendations and suggests information the report should include.
- Requires the Legislative Service Commission (LSC) to provide staff services to a standing committee performing a review of a board.

LSC Director reports of bills

- Requires the LSC Director to issue reports of all bills introduced in a General Assembly that propose to substantially change or enact occupational regulations.
- States that the Director's report must compare the bill's regulatory scheme with the state's policy on occupational regulation, and the bill's potential impact on employment, consumer choice, market competition, and cost to government.
- Requires the report also to compare the bill's regulatory scheme with those of other states and with any state policy set forth in the Revised Code provisions governing the occupation.
- Allows the bill's sponsor to submit information to the Director to assist the Director with the report.

LSC Director reports of occupations

- Requires the LSC Director to issue a report of 33% of the occupational licensing boards each biennium beginning in 2019, requires the report to be issued of all occupations at least once before 2024, and on a six-year rolling basis after 2024.
- Permits the Director to align the reports with a standing committee's review of occupational licensing boards.
- Requires the report to compare the current regulatory scheme for an occupation with the state's policy on occupational regulation.
- Allows the Director to require a board to submit relevant information to the Director.

Official state policy on occupational regulation

- Establishes a state policy on occupational regulation of individuals to be used when a body is reviewing an occupational licensing board or the board's actions.

- Requires the state to use the least restrictive regulation where the state finds it necessary to displace competition, and states that the least restrictive regulation is that which relies on market competition and private remedy to protect consumers.
- Lists appropriate state actions to be taken to protect against specific harms to consumers.
- Preempts local law or regulation inconsistent with the state's policy on occupational regulation to the extent that a political subdivision regulates an occupation that the state also regulates.

Home inspectors

- Establishes the Home Inspector Law and requires individuals wishing to perform home inspections to obtain a license.
- Establishes criminal penalties for performing home inspections without a license and knowingly making, or causing to be made, a false representation concerning a material and relevant fact relating to a person's licensure as a home inspector.
- Creates the Ohio Home Inspector Board to regulate the licensure and performance of home inspectors and requires the Superintendent of Real Estate and Professional Licensing to administer the Home Inspector Law.
- Prohibits a home inspection from being performed unless it is performed pursuant to a written contract between a licensed home inspector and a client.
- Requires a real estate broker or salesperson who provides the name of a home inspector to a purchaser or seller of real estate to provide the names of at least three licensed home inspectors.
- Requires a licensed home inspector to include a written report of the visual examination performed by a licensed home inspector during a home inspection.
- Requires a licensed home inspector to retain documents related to home inspection work for a five-year period.
- Prohibits any person from performing a home inspection unless the inspection conforms to requirements for conducting home inspections, standards of practice, and prohibitions against conflicts of interest specified in rules adopted by the Board.
- Allows the Superintendent, in accordance with specified requirements, to investigate a complaint of unlicensed activity or of performing a home inspection in a manner that does not conform to Board rules or without having entered into a contract.
- Requires the Board to hold a hearing regarding an alleged violation of the Home Inspector Law's prohibited activities in accordance with specified requirements and,

if the Board finds that a violation has occurred, allows the Board to impose a fine on the person, not to exceed \$500 per violation.

- Establishes requirements an individual must satisfy to obtain a license under the Home Inspector Law and requires the Superintendent to have fingerprint-based criminal records checks conducted on applicants for licensure.
- Requires the Superintendent to investigate complaints of violations of the Home Inspector Law and grants the Superintendent and the Board subpoena power in relation to any matter over which the Board or Superintendent has jurisdiction and which is the subject of inquiry and investigation by the Board or Superintendent.
- Specifies disciplinary actions to which a licensed home inspector may be subject for violating the Home Inspector Law's provisions and allows for mediation before an investigation and settlement agreements prior to an adjudication hearing.
- Limits lawsuits brought under the Home Inspector Law to those actions available under common law.
- Specifies that the disciplinary actions against a licensed home inspector are the only remedies for a violation of a conflict of interest prohibition.
- Creates the Home Inspection Recovery Fund administered by the Superintendent for the purpose of satisfying certain judgments against a licensed home inspector when the judgment creditor has exhausted other avenues for recovery.
- Creates the Home Inspectors Fund in the state treasury to be used solely to pay expenses for administering and enforcing the Home Inspector Law's provisions.

Makeup artistry

- Defines "makeup artistry" as the application of cosmetics for the purpose of skin beautification.
- Adds makeup artistry to the practice of boutique services.
- Specifies that a person may submit an affidavit or a certificate as proof of formal training or apprenticeship for a boutique services registration.

Sub. S.B. 259

Sens. Hackett, Tavares, Brown, Burke, Hoagland, Manning, McColley, O'Brien, Schiavoni, Thomas, Yuko

Reps. Anielski, Antonio, Blessing, Brown, Craig, Edwards, Galonski, Gavarone, Ginter, Henne, Householder, Kent, Leland, Miller, Perales, Rogers, Young, R. Smith

Effective date: March 20, 2019; teledentistry prohibitions effective September 20, 2019

Physician assistants

- Eliminates the physician assistant drug formulary established by the State Medical Board.
- Explicitly prohibits a physician assistant from prescribing a drug in violation of state or federal law.
- Permits a physician assistant to delegate to another person the task of administering a drug, but only if the physician assistant is authorized to prescribe that drug.
- Allows a physician assistant to personally furnish samples of drugs that are not in the physician assistant's physician-delegated prescriptive authority.
- Qualifies an out-of-state, military, or U.S. Public Health Service physician assistant for licensure if the physician assistant has practiced for at least two years or has passed an examination or assessment or agreed to limits on the extent, scope, or type of practice.
- Exempts a physician assistant with prescriptive authority who has practiced in the military or Public Health Service from the requirement to be supervised on-site by a physician.
- Increases to five (from three) the number of physician assistants a physician may supervise at one time.
- Reduces to one (from two) the number of pharmacists on the State Medical Board's Physician Assistant Policy Committee and authorizes the Committee to meet by video or teleconference.

Dental assistants, hygienists, expanded function auxiliaries

- Reduces to one year (from two) and 1,500 hours (from 3,000) the experience required before a dental assistant or expanded function dental auxiliary (EFDA) may provide certain services when the supervising dentist is not physically present.
- Authorizes a dental hygienist or EFDA to perform additional services when a supervising dentist is not physically present.
- Authorizes a dental hygienist or EFDA to apply silver diamine fluoride if the dentist has examined the patient and diagnosed a need for the treatment, and the hygienist or EFDA has completed a relevant Dental Board-approved course.
- Prohibits a dental assistant from applying silver diamine fluoride when the supervising dentist is not physically present.

Teledentistry

- Authorizes teledentistry, defined as the delivery of dental services through use of synchronous, real-time communication, including by a dental hygienist or EFDA pursuant to a dentist's authorization.
- Requires a dentist performing and authorizing teledentistry services to obtain a permit from the Dental Board.
- Specifies requirements a dentist must meet before providing or authorizing teledentistry services.
- Specifies requirements that must be met before a dental hygienist or EFDA may perform teledentistry services as authorized by a dentist.
- Prohibits certain insurers from denying coverage for services delivered through teledentistry.
- Requires the Department of Medicaid to establish standards for Medicaid payments for teledentistry services.

Other provisions

- Revises the law governing general anesthesia permits and dental licensing exams.
- Requires the development of a proposal to award scholarships to dental students under the Choose Ohio First scholarship program.
- Permits a dental hygienist to provide dental hygiene services as part of the Oral Health Access Supervision Program if the hygienist is employed by the same entity as the dentist authorizing those services.